



Republic of the Philippines
SUPREME COURT
Manila

SECOND DIVISION

G.R. Nos. 81100-01 February 7, 1990

BACOLOD-MURCIA MILLING CO., INC., petitioner,
vs.

HON. COURT OF APPEALS AND ALONSO GATUSLAO, respondents.

BACOLOD-MURCIA MILLING CO., INC., petitioner,
vs.

HON. COURT OF APPEALS, ALONSO GATUSLAO, AGRO-INDUSTRIAL DEVELOPMENT OF SILAY-SARAVIA (AIDSISA) AND BACOLOD-MURCIA AGRICULTURAL COOPERATIVE MARKETING ASSOCIATION (BM-ACMA), respondents.

Jalandoni, Herrera, Del Castillo & Associates for petitioner.

Tañada, Vico & Tan for respondent AIDSISA.

San Juan, Gonzalez, San Agustin & Sinense for respondents Alfonso Gatuslao and BM-ACMA.

PARAS, J.:

This is a petition for review on certiorari of the decision of the Court of Appeals in CA-G.R. CV Nos. 59716-59717 promulgated on September 11, 1987 affirming *in toto* the decision of the Court of First Instance of Negros Occidental in two consolidated civil cases, the dispositive portion of which reads as follows:

PREMISES CONSIDERED, the decision appealed from is hereby affirmed *in toto*.

The uncontroverted facts of the case ¹ are as follows:

1. xxx xxx xxx
2. BMMC is the owner and operator of the sugar central in Bacolod City, Philippines;
3. ALONSO GATUSLAO is a registered planter of the Bacolod-Murcia Mill District with Plantation Audit No. 3-79, being a registered owner of Lot Nos. 310, 140, 141 and 101-A of the Cadastral Survey of Murcia, Negros Occidental, otherwise known as Hda. San Roque;
4. On May 24, 1957 BMMC and Alonso Gatuslao executed an 'Extension and Modification of Milling Contract (Annex 'A' of the complaint in both cases) which was registered on September 17, 1962 in the Office of the Register of Deeds of Negros Occidental, and annotated on Transfer Certificates of Title Nos. T-24207, RT-2252, RT-12035, and RT-12036 covering said Lot Nos. 310, 140, 141 and 101-A;
5. That since the crop year 1957-1958 up to crop year 1967-1968, inclusive, Alonso Gatuslao has been milling all the sugarcane grown and produced on said Lot Nos. 310, 140, 141 and 101-A with the Mill of BMMC;
6. Since the crop year 1920-21 to crop year 1967-1968, inclusive, the canes of planters adhered to the mill of BMMC were transported from the plantation to the mill by means of cane cars and through railway system operated by BMMC;
7. The loading points at which planters Alonso Gatuslao was and should deliver and load all his canes produced in his plantation, Hda. San Roque, were at the Arimas Line, Switch 2, and

from which loading stations, BMMC had been hauling planter Gatuslao's sugar cane to its mill or factory continuously until the crop year 1967-68;

8. BMMC had not been able to use its cane cars and railway system for the cargo crop year 1968-1969;

9. Planter Alonso Gatuslao on various dates requested transportation facilities of BMMC to be sent to his loading stations or switches for purposes of hauling and milling his sugarcane crops of crop year 1968-1969;

10. The estimated gross production of Hda. San Roque for the crop year 1968-1969 is 4,500 piculs.

The records show that since the crop year 1920-1921 to the crop year 1967-1968, the canes of the adhered planters were transported from the plantation to the mill of BMMC by means of cane cars and through a railway system operated by BMMC which traversed the land of the adherent planters, corresponding to the rights of way on their lands granted by the planters to the Central for the duration of the milling contracts which is for "un periodo de cuarenta y cinco anos o cosechas a contar desde la cosecha de 1920-1921" ² (a period of 45 years or harvests, beginning with a harvest of 1920-1921).

BMMC constructed the railroad tracks in 1920 and the adherent planters granted the BMMC a right of way over their lands as provided for in the milling contracts. The owners of the hacienda Helvetia were among the signatories of the milling contracts. When their milling contracts with petitioner BMMC expired at the end of the 1964-1965 crop year, the corresponding right of way of the owners of the hacienda Helvetia granted to the Central also expired.

Thus, the BMMC was unable to use its railroad facilities during the crop year 1968-1969 due to the closure in 1968 of the portion of the railway traversing the hacienda Helvetia as per decision of the Court in *Angela Estate, Inc. and Fernando F. Gonzaga, Inc. v. Court of First Instance of Negros Occidental*, G.R. No. L-27084, (24 SCRA 500 [1968]). In the same case the Court ruled that the Central's conventional right of way over the hacienda Helvetia ceased with the expiration of its amended milling contracts with the landowners of the hacienda at the end of the 1964-1965 crop year and that in the absence of a renewal contract or the establishment of a compulsory servitude of right of way on the same spot and route which must be predicated on the satisfaction of the preconditions required by law, there subsists no right of way to be protected.

Consequently, the owners of the hacienda Helvetia required the Central to remove the railway tracks in the hacienda occupying at least 3,245 lineal meters with a width of 7 meters or a total of 22,715 square meters, more or less. That was the natural consequence of the expiration of the milling contracts with the landowners of the hacienda Helvetia (*Angela Estate, Inc. and Fernando Gonzaga, Inc. v. Court of First Instance of Negros Occidental, ibid*). BMMC filed a complaint for legal easement against the owners of the hacienda, with the Court of First Instance of Negros Occidental which issued on October 4, 1965 an *ex parte* writ of preliminary injunction restraining the landowners from reversing and/or destroying the railroad tracks in question and from impeding, obstructing or in any way preventing the passage and operation of plaintiffs locomotives and cane cars over defendants' property during the pendency of the litigation and maintained the same in its subsequent orders of May 31, and November 26, 1966. The outcome of the case, however, was not favorable to the plaintiff BMMC. In the same case the landowners asked this Court to restrain the lower court from enforcing the writ of preliminary injunction it issued, praying that after the hearing on the merits, the restraining order be made permanent and the orders complained of be annulled and set aside. The Court gave due course to the landowner's petition and on August 10, 1967 issued the writ of preliminary injunction enjoining the lower court from enforcing the writ of preliminary injunction issued by the latter on October 4, 1965.

The writ of preliminary injunction issued by the Court was lifted temporarily on motion that through the mediation of the President of the Philippines the Angela Estate and the Gonzaga Estate agreed with the Central to allow the use of the railroad tracks passing through the hacienda Helvetia during the 1967-1968 milling season only, for the same purpose for which they had been previously used, but it was understood that the lifting of the writ was without prejudice to the respective rights and positions of the parties in the case and not deemed a waiver of any of their respective claims and allegations in G.R. No. L-27084 or in any other case between the same parties, future or pending. The Court resolved to approve the motion only up to and including June 30, 1968 to give effect to the agreement but to be deemed automatically reinstated beginning July 1, 1968 (*Angela Estate, Inc. and Fernando F. Gonzaga, Inc. v. Court of First Instance of Negros Occidental, ibid.*).

The temporary lifting of the writ of preliminary injunction assured the milling of the 1967-1968 crop but not the produce of the succeeding crop years which situation was duly communicated by the President

and General Manager of the BMMC to the President of Bacolod-Murcia Sugar Farmers Corporation (BMSFC) on January 2, 1968.³

On October 30, 1968, Alonso Gatuslao, one of private respondents herein, and his wife, Maria H. Gatuslao, filed Civil Case No. 8719 in the Court of First Instance of Negros Occidental, against petitioner herein, Bacolod-Murcia Milling Co., Inc. (BMMC), for breach of contract, praying among others, for the issuance of a writ of preliminary mandatory injunction ordering defendant to immediately send transportation facilities and haul the already cut sugarcane to the mill site and principally praying after hearing, that judgment be rendered declaring the rescission of the milling contract executed by plaintiffs and defendant in 1957 for seventeen (17) years or up to crop year 1973-74, invoking as ground the alleged failure and/or inability of defendant to comply with its specific obligation of providing the necessary transportation facilities to haul the sugarcane of Gatuslao from plaintiffs plantation specifically for the crop year 1967-1968. Plaintiffs further prayed for the recovery of actual and compensatory damages as well as moral and exemplary damages and attorney's fees.⁴

In answer, defendant BMMC claimed that despite its inability to use its railways system for its locomotives and cane cars to haul the sugarcane of all its adhered planters including plaintiffs for the 1968-69 crop year allegedly due to *force majeure*, in order to comply with its obligation, defendant hired at tremendous expense, private trucks as prime movers for its trailers to be used for hauling of the canes, especially for those who applied for and requested transportation facilities. Plaintiffs, being one of said planters, instead of loading their cut canes for the 1968-69 crop on the cargo trucks of defendant, loaded their cut canes on trucks provided by the Bacolod-Murcia Agricultural Cooperative Marketing Association, Inc. (B-M ACMA) which transported plaintiffs' canes of the 1968-69 sugarcane crop. Defendant prayed in its counterclaim for the dismissal of Civil Case No. 8719 for the recovery of actual damages, moral and exemplary damages and for attorney's fees.⁵

On November 21, 1968, BMMC filed in the same court Civil Case No. 8745 against Alonso Gatuslao, the Agro-Industrial Development of Silay-Saravia (AIDSISA) and the Bacolod-Murcia Agricultural Cooperative Marketing Associations, Inc. (B-M ACMA), seeking specific performance under the mining contract executed on May 24, 1957 between plaintiff and defendant Alonso Gatuslao praying for the issuance of writs of preliminary mandatory injunction to stop the alleged violation of the contract by defendant Alonso Gatuslao in confederation, collaboration and connivance with defendant BM-ACMA, AIDSISA, and for the recovery of actual, moral and exemplary damages and attorney's fees.⁶

Defendant Alonso Gatuslao and the Bacolod-Murcia Agricultural Cooperative Marketing Association, Inc. filed their answer on January 27, 1969 with compulsory counter-claims, stating by way of special and affirmative defense, among others, that the case is barred by another action pending between the same parties for the same cause of action.⁷

Defendant Agro-Industrial Development Corporation of Silay-Saravia, Inc. filed its answer on February 8, 1969, alleging among others by way of affirmative defense that before it agreed to mill the sugarcane of its co-defendant Alonso Gatuslao, it carefully ascertained and believed in good faith that: (a) plaintiff was incapable of the sugarcane of AIDSISA's co-defendant planters as well as the sugarcane of other planters formerly adherent to plaintiff, (b) plaintiff had in effect agreed to a rescission of its milling contracts with its adhered planters, including the defendant planter, because of inadequate means of transportation. and had warned and advised them to mill their sugarcane elsewhere, and had thus induced them to believe and act on the belief, that it could not mill their sugarcane and that it would not object to their milling with other centrals; and (c) up to now plaintiff is incapable of hauling the sugarcane of AIDSISA's co-defendants to plaintiffs mill site for milling purposes.

The two cases, Civil Cases Nos. 8719 and 8745 were consolidated for joint trial before Branch II of the Court of First Instance of Negros Occidental.⁸ On September 8, 1969, the parties in both civil cases filed their partial stipulation of facts which included a statement of the issues raised by the parties.⁹

On February 6, 1976, the lower court rendered judgment declaring the milling contract dated May 24, 1957 rescinded. The dispositive portion of the decision¹⁰ reads:

WHEREFORE, judgment is hereby rendered as follows:

(1) In Civil Case No. 8719 the milling contract (Exh. "121") dated May 24, 1957 is hereby declared rescinded or resolved and the defendant Bacolod-Murcia Company, Inc. is hereby ordered to pay plaintiffs Alonso Gatuslao and Maria H. Gatuslao the amount of P2,625.00 with legal interest from the time of the filing of the complaint by way of actual damages; P5,000.00 as attorney's fees and the costs of the suit; defendant's counterclaim is dismissed; and

(2) The complaint in Civil Case No. 8745 as well as the counterclaims therein are ordered dismissed, without costs.

Bacolod-Murcia Milling Co., Inc. defendant in Civil Case No. 8719 and plaintiff in Civil Case No. 8745 appealed the case to respondent Court of Appeals which affirmed *in toto* (Rollo, p. 81) the decision of the lower court. The motion for reconsideration filed by defendant-appellant Bacolod-Murcia Milling Company, petitioner herein, was denied by the appellate court for lack of merit. ¹¹ Hence, this petition.

The issues ¹² raised by petitioner are as follows:

I

WHETHER OR NOT THE CLOSURE OF PETITIONER'S RAIL ROAD LINES CONSTITUTE *FORCE MAJEURE*.

II

WHETHER OR NOT PRIVATE RESPONDENT GATUSLAO HAS THE RIGHT TO RESCIND THE MILLING CONTRACT WITH PETITIONER UNDER ARTICLE 1191 OF THE CIVIL CODE.

III

WHETHER OR NOT PRIVATE RESPONDENT GATUSLAO WAS JUSTIFIED IN VIOLATING HIS MILLING CONTRACT WITH PETITIONER.

IV

WHETHER OR NOT PRIVATE RESPONDENTS GATUSLAO AND B-M ACMA ARE GUILTY OF BAD FAITH IN THE EXERCISE OF THEIR DUTIES AND ARE IN ESTOPPEL TO QUESTION THE ADEQUACY OF THE TRANSPORTATION FACILITIES OF PETITIONER AND ITS CAPACITY TO MILL AND HAUL THE CANES OF ITS ADHERENT PLANTERS.

The crux of the issue is whether or not the termination of petitioner's right of way over the hacienda Helvetia caused by the expiration of its amended milling contracts with the landowners of the lands in question is a fortuitous event or *force majeure* which will exempt petitioner BMMC from fulfillment of its contractual obligations.

It is the position of petitioner Bacolod-Murcia Milling Co., Inc. (BMMC) that the closure of its railroad lines constitute *force majeure*, citing Article 1174 of the Civil Code, exempting a person from liability for events which could not be foreseen or which though foreseen were inevitable.

This Court has consistently ruled that when an obligor is exempted from liability under the aforecited provision of the Civil Code for a breach of an obligation due to an act of God, the following elements must concur: (a) the cause of the breach of the obligation must be independent of the will of the debtor; (b) the event must be either unforeseeable or unavoidable; (c) the event must be such as to render it impossible for the debtor to fulfill his obligation in a normal manner; (d) the debtor must be free from any participation in, or aggravation of the injury to the creditor (*Vasquez v. Court of Appeals*, 138 SCRA 553 [1985]; *Juan F. Nakpil & Sons v. Court of Appeals*, 144 SCRA 596 [1986]). Applying the criteria to the instant case, there can be no other conclusion than that the closure of the railroad tracks does not constitute *force majeure*.

The terms of the milling contracts were clear and undoubtedly there was no reason for BMMC to expect otherwise. The closure of any portion of the railroad track, not necessarily in the hacienda Helvetia but in any of the properties whose owners decided not to renew their milling contracts with the Central upon their expiration, was foreseeable and inevitable.

Petitioner Central should have anticipated and should have provided for the eventuality before committing itself. Under the circumstances it has no one to blame but itself and cannot now claim exemption from liability.

In the language of the law, the event must have been impossible to foresee, or if it could be foreseen, must have been impossible to avoid. There must be an entire exclusion of human agency from the cause of the injury or loss (*Vasquez v. Court of Appeals*, *supra*). In the case at bar, despite its awareness that the conventional contract of lease would expire in Crop Year 1964-1965 and that refusal on the part of any one of the landowners to renew their milling contracts and the corresponding use of the right of way on their lands would render impossible compliance of its commitments, petitioner took a calculated risk that all the landowners would renew their contracts. Unfortunately, the sugar plantation of Angela

Estate, Inc. which is located at the entrance of the mill was the one which refused to renew its milling contract. As a result, the closure of the railway located inside said plantation paralyzed the entire transportation system. Thus, the closure of the railway lines was not an act of God nor does it constitute *force majeure*. It was due to the termination of the contractual relationships of the parties, for which petitioner is charged with knowledge. Verily, the lower court found that the Angela Estate, Inc. notified BMMC as far back as August or September 1965 of its intention not to allow the passage of the railway system thru its land after the aforesaid crop year. Adequate measures should have been adopted by BMMC to forestall such paralyzation but the records show none. All its efforts were geared toward the outcome of the court litigation but provided no solutions to the transport problem early enough in case of an adverse decision.

The last three issues being inter-related will be treated as one. Private respondent Gatuslao filed an action for rescission while BMMC filed in the same court an action against Gatuslao, the Agro Industrial Development Silay Saravia (AIDSISA) and the Bacolod-Murcia Agricultural Cooperative Marketing Associations, Inc. (B-M ACMA) for specific performance under the milling contract.

There is no question that the contract in question involves reciprocal obligations; as such party is a debtor and creditor of the other, such that the obligation of one is dependent upon the obligation of the other. They are to be performed simultaneously so that the performance of one is conditioned upon the simultaneous fulfillment of the other (*Boysaw v. Interphil Promotions, Inc.*, 148 SCRA 643 [1987]).

Under Article 1191 of the Civil Code, the power to rescind obligations is implied in reciprocal ones in case one of the obligors should not comply with what is incumbent upon him. In fact, it is well established that the party who deems the contract violated may consider it revoked or rescinded pursuant to their agreement and act accordingly, even without previous court action (*U.P. v. de los Angeles*, 35 SCRA 102 [1970]; *Luzon Brokerage Co., Inc. v. Maritime Building Co., Inc.*, 43 SCRA 94 [1972]).

It is the general rule, however, that rescission of a contract will not be permitted for a slight or casual breach, but only for such substantial and fundamental breach as would defeat the very object of the parties in making the agreement. The question of whether a breach of a contract is substantial depends upon the attendant circumstances (*Universal Food Corporation v. Court of Appeals, et al.*, 33 SCRA 1 [1970]).

The issue therefore, hinges on who is guilty of the breach of the milling contract.

Both parties are agreed that time is of the essence in the sugar industry; so that the sugarcanes have to be milled at the right time, not too early or too late, if the quantity and quality of the juice are to be assured. As found by the trial court, upon the execution of the amended milling contract on May 24, 1957 for a period of 17 crop years, BMMC undertook expressly among its principal prestations not only to mill Gatuslao's canes but to haul them by railway from the loading stations to the mill. Atty. Solidum, Chief Legal Counsel and in Charge of the Legal-Crop Loan Department of the BMMC Bacolod City admits that the mode of transportation of canes from the fields to the mill is a vital factor in the sugar industry; precisely for this reason the mode of transportation or hauling the canes is embodied in the milling contract.¹³ But BMMC is now unable to haul the canes by railways as stipulated because of the closure of the railway lines; so that resolution of this issue ultimately rests on whether or not BMMC was able to provide adequate and efficient transportation facilities of the canes of Gatuslao and the other planters milling with BMMC during the crop year 1968-1969. As found by both the trial court and the Court of Appeals, the answer is in the negative.

Armando Guanzon, Dispatcher of the Transportation Department of BMMC testified that when the Central was still using the railway lines, it had between 900 to 1,000 cane cars and 10 locomotives, each locomotive pulling from 30 to 50 cane cars with maximum capacity of 8 tons each.¹⁴ This testimony was corroborated by Rodolfo Javelosa, Assistant Crop Loan Inspector in the Crop Loan Department of petitioner.¹⁵ After the closure of the railway lines, petitioner on February 5, 1968 through its President and General Manager, informed the National Committee of the National Federation of Sugarcane Planters that the trucking requirement for hauling adherent planters produce with a milling average of 3,500 tons of canes daily at an average load of 5 tons per truck is not less than 700 trucks daily plus another 700 empty trucks to be shuttled back to the plantations to be available for loading the same day.¹⁶ Guanzon, however, testified that petitioner had only 280 units of trailers, 20 tractors and 3 trucks plus 20 trucks more or less hired by the Central and given as repartos (allotments) to the different planters.¹⁷ The 180 trailers that the Central initially had were permanently leased to some planters who had their own cargo trucks while out of the 250 BMMC trailers existing during the entire milling season only 70 were left available to the rest of the planters pulled by 3 trucks.¹⁸

It is true that BMMC purchased 20 units John Deere Tractors (prime movers) and 230 units, Vanguard Trailers with land capacity of 3 tons each but that was only on October 1968 as registered in the Land Transportation Commission, Bacolod City.¹⁹

The evidence shows that great efforts had been exerted by the planters to enter into some concrete understanding with BMMC with a view of obtaining a reasonable assurance that the latter would be able to haul and mill their canes for the 1968-1969 crop year, but to no avail. ²⁰

As admitted by BMMC itself, in its communications with the planters, it is not in a position to provide adequate transportation for the canes in compliance with its commitment under the milling contract. Said communications ²¹ were quoted by the Court of Appeals as follows:

We are sorry to inform you that unless we can work out a fair and equitable solution to this problem of closure of our railroad lines, the milling of your canes for the crop year 1968-69 would be greatly hampered to the great detriment of our economy and the near elimination of the means of livelihood of most planters and the possible starvation of thousands of laborers working in the sugar District of Bacolod-Murcia Milling Co.

and

We are fully conscious of our contractual obligations to our existing Milling Contract. But, if prevented by judicial order we will find ourselves unable to serve you in the hauling of the canes through our railroad lines. It is for this reason that we suggest you explore other solutions to the problem in the face of such an eventuality so that you may be able to proceed with the planting of your canes with absolute peace of mind and the certainty that the same will be properly milled and not left to rot in the fields.

also,

In the meantime, and before July 1, 1968, the end of the temporary arrangement we have with Fernando Gonzaga, Inc. and the Angela Estate, Inc. for the use of the rights of ways, our lawyers are studying the possibility of getting a new injunction from the Supreme Court or the Court of First Instance of Negros Occidental based on the new grounds interposed in said memorandum not heretofore raised previously nor in the Capitol Subdivision case. And if we are doing this, it is principally to prevent any injury to your crops or foreclosure of your property, which is just in line with the object of your plans.

On March 26, 1968 the President of the Bacolod-Murcia Sugar Farmer's Corporation writing on behalf of its planter-members demanded to know the plans of the Central for the crop year 1968-1969, stating that if they fail to hear from the Central on or before the 15th of April they will feel free to make their own plans in order to save their crops and the possibility of foreclosure of their properties. ²²

In its letter dated April 1, 1968, the president of BMMC simply informed the Bacolod-Murcia Sugar Farmer's Corporation that they were studying the possibility of getting a new injunction from the court before expiration of their temporary arrangement with Fernando Gonzaga, Inc. and the Angela Estate, Inc. ²³

Pressing for a more definite commitment (not a mere hope or expectation), on May 30, 1968 the Bacolod-Murcia Sugar Farmer's Corporation requested the Central to put up a performance bond in the amount of P13 million within a 5-day period to allay the fears of the planters that their sugar canes can not be milled at the Central in the coming milling season. ²⁴

BMMC's reply was only to express optimism over the final outcome of its pending cases in court.

Hence, what actually happened afterwards is that petitioner failed to provide adequate transportation facilities to Gatuslao and other adherent planters.

As found by the trial court, the experience of Alfonso Gatuslao at the start of the 1968-1969 milling season is reflective of the inadequacies of the *reparto* or trailer allotment as well as the state of unpreparedness on the part of BMMC to meet the problem posed by the closure of the railway lines.

It was established that after Gatuslao had cut his sugarcanes for hauling, no trailers arrived and when two trailers finally arrived on October 20, 1968 after several unheeded requests, they were left on the national highway about one (1) kilometer away from the loading station. Such fact was confirmed by Carlos Butog the driver of the truck that hauled the trailers. ²⁵

Still further, Javelosa, Assistant Crop Loan Inspector, testified that the estimated production of Gatuslao for the crop year 1968-1969 was 4,400 piculs hauled by 10 cane cars a week with a maximum capacity of 8 tons. ²⁶ Compared with his later schedule of only one trailer a week with a maximum capacity of only 3 to 4 tons,

²⁷ there appears to be no question that the means of transportation provided by BMMC is very inadequate to answer the needs of Gatuslao.

Undoubtedly, BMMC is guilty of breach of the conditions of the milling contract and that Gatuslao is the injured party. Under the same Article 1191 of the Civil Code, the injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case. In fact, he may also seek rescission even after he had chosen fulfillment if the latter should become impossible.

Under the foregoing, Gatuslao has the right to rescind the milling contract and neither the court *a quo* erred in decreeing the rescission claimed nor the Court of Appeals in affirming the same.

Conversely, BMMC cannot claim enforcement of the contract. As ruled by this Court, by virtue of the violations of the terms of the contract, the offending party has forfeited any right to its enforcement (*Boysaw v. Interphil Promotions, Inc.*, 148 SCRA 645 [1987]).

Likewise, the Bacolod-Murcia Agricultural Cooperative Marketing Association, Inc. (B-M ACMA) cannot be faulted for organizing itself to take care of the needs of its members. Definitely, it was organized at that time when petitioner could not assure the planters that it could definitely haul and mill their canes. More importantly, as mentioned earlier in a letter dated January 12, 1968, J. Araneta, President & General Manager of the Central itself suggested to the Bacolod-Murcia Sugar Farmer's Corporation that it explore solutions to the problem of hauling the canes to the milling station in the face of the eventuality of a judicial order permanently closing the railroad lines so that the planters may be able to proceed with their planting of the canes with absolute peace of mind and the certainty that they will be properly milled and not left to rot in the fields. As a result, the signing of the milling contract between private respondents AIDSISA and B-M-ACMA on June 19, 1968 ²⁸ was a matter of self-preservation inasmuch as the sugarcanes were already matured and the planters had crop loans to pay. Further delay would mean tremendous losses. ²⁹

In its defense AIDSISA stressed as earlier stated, that it agreed to mill the sugarcanes of Gatuslao only after it had carefully ascertained and believed in good faith that BMMC was incapable of milling the sugarcanes of the adherent planters because of inadequate transportation and in fact up to now said Central is incapable of hauling the sugarcanes of the said planters to its mill site for milling purposes.

As an extra precaution, AIDSISA provided in paragraph 15 ³⁰ of its milling contract that—

If any member of the planter has an existing milling contract with other sugar central, then this milling contract with the Central shall be of no force and effect with respect to that member or those members having such contract, *if that other sugar central is able, ready and willing, to mill said member or members' canes in accordance with their said milling contract.* (Emphasis supplied)

The President of BANC himself induced the planters to believe and to act on the belief that said Central would not object to the milling of their canes with other centrals.

Under the circumstances, no evidence of bad faith on the part of private respondents could be found much less any plausible reason to disturb the findings and conclusions of the trial court and the Court of Appeals.

PREMISES CONSIDERED, the petition is hereby DENIED for lack of merit and the decision of the Court of Appeals is hereby AFFIRMED *in toto*.

SO ORDERED.

Melencio-Herrera (Chairperson), Padilla, Sarmiento and Regalado, JJ., concur.

Footnotes

1 Record on Appeal, p. 234, Rollo.

2 Milling Contract, par. 9, p. 335, Rollo.

3 Exhibits, p. 13.

4 Rollo, p. 116.

- 5 Rollo, p. 148.**
- 6 Rollo, p. 157.**
- 7 Rollo, p. 293.**
- 8 Rollo, p. 233.**
- 9 Rollo, p. 234.**
- 10 Rollo, p. 238.**
- 11 Rollo, p. 113.**
- 12 Rollo, p. 445.**
- 13 Rollo, p. 97.**
- 14 TSN, June 29, 1971, pp. 21-22.**
- 15 TSN, January 24, 1973, pp. 16-18.**
- 16 Exhibits, p. 51.**
- 17 TSN, June 29, 1971, p. 13.**
- 18 TSN, July 29, 1971, pp. 13-20.**
- 19 Exhibits, p. 34.**
- 20 Rollo, pp. 97-98.**
- 21 Rollo, p. 108.**
- 22 Exhibits, p. 17.**
- 23 Exhibits, p. 18.**
- 24 Exhibits, p. 21.**
- 25 TSN, February 23, 1971, pp. 7-12.**
- 26 TSN, January 24, 1973, pp. 24, 30.**
- 27 TSN, January 15, 1970, p. 25.**
- 28 Exhibits, p. 30.**
- 29 TSN, September 9, 1969, pp. 36-37.**
- 30 Rollo, p. 91.**